

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to confidential records

The Department of Transportation hereby amends Chapter 4, “Public Records and Fair Information Practices,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 305.15 and 307.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 22.7(50), 80G.2 and 80G.3.

Purpose and Summary

These amendments, which are explained more specifically below, rescind subrules 4.4(3) and 4.9(23) because they are no longer necessary, amend subrule 4.9(15) to conform to current Iowa Code language, and update the implementation sentence of rule 761—4.9(22) to include the applicable Iowa Code sections.

Subrule 4.4(3) concerns release of confidential records by the Director of Transportation. After review with the Attorney General’s office, the Department determined that subrule 4.4(3) is unnecessary and that the procedure for records protected under Iowa Code chapter 22 is already comprehensively addressed in that Iowa Code chapter.

2017 Iowa Acts, chapter 122, sections 3 to 6, created Iowa Code chapter 80G, Undercover Law Enforcement — Privilege — Confidentiality. The amendment to subrule 4.9(15) implements Iowa Code sections 80G.2 and 80G.3.

Subrule 4.9(23) concerns records which contain information relating to security procedures, emergency preparedness and disaster recovery. Iowa Code section 22.7(50) was amended by 2017 Iowa Acts, chapter 156, which removed a paragraph stating that Iowa Code section 22.7(50) only applied to information held by a government body that had adopted a rule or policy which identified the specific confidential records. Therefore, subrule 4.9(23), which includes the Department’s specific confidential records, is no longer needed.

The Records Commission approved the amendments at its meeting held on February 8, 2019.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 5, 2019, as **ARC 4471C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on August 12, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on October 16, 2019.

The following rule-making actions are adopted:

ITEM 1. Rescind and reserve subrule **4.4(3)**.

ITEM 2. Amend subrule 4.9(15), introductory paragraph, as follows:

4.9(15) ~~Certain~~ Privileged and personnel records or information of law enforcement officers and undercover law enforcement officers, as specified in Iowa Code sections 80G.2 and 80G.3, as well as certain records regarding undercover driver's licenses issued to certified peace officers employed by a local authority or by the state or federal law enforcement officers, as specified in 761—Chapter 625. (Iowa Code sections 22.7, 80G.2, 80G.3 and 321.189A)

ITEM 3. Rescind and reserve subrule **4.9(23)**.

ITEM 4. Amend rule **761—4.9(22)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapters 22, 553 and 692; Iowa Code sections 17A.2, 17A.3, 21.5, 72.3, 80G.2, 80G.3, 313.10, 321.11, 321.11A, 321.19, 321.186, 321.189A, 321.266, 321.271, 422.20, 452A.63, 622.10, 622.11, 804.29 and 808.13; 5 U.S.C. §§ 552 and 552a; 18 U.S.C. § 2721 et seq.; and 42 U.S.C. § 405.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/11/19.